

Dylan Traill-Barwick, you plead guilty to trafficking in a controlled substance. I also agreed to deal with your plea of guilty to the summary charge of using a controlled drug.

Just before midnight on Saturday 21 July 2018 you were removed from a night club in Launceston after security staff saw you with a snap lock bag of capsules. The police were called. You were in possession of 33 MDA capsules with a total weight of 8.3 grams, 2.0 grams of MDA powder, a mobile phone with a list of nine people who owed you a total of \$980 for drugs and numerous messages arranging drug sales, and \$580 in cash. When you were interviewed by the police you, at least at first, lied to them. You falsely stated that you had found the bag and sought to downplay the obvious meaning of the messages on your phone. However by the end of the interview you admitted that you had been trafficking in MDA for at least a month by selling it, agreeing to sell it, offering it for sale and possessing it for sale. You also admitted having used MDA or MDMA since the start of 2018.

The MDA capsules found in your possession were worth up to \$825 if sold individually. You were selling the drug to, at least in part, fund your own use.

You are aged 23. You were 21 when this crime was committed. You are a young person and you have no prior drug related convictions. You were fined and disqualified from driving for an alcohol related driving offence in early 2018. You became estranged from your family in your early teens and have been fending for yourself since then. You receive social security benefits and live with your partner in rented accommodation. For a time you held employment as a traffic controller with a contracting company but that ended when you lost your licence. You entered an early plea of guilty. That is a factor of particular weight when trials are indefinitely delayed by the pandemic, although you pleaded guilty long before that was on the horizon. My impression is that you are not entirely sorry for what you did, and that you do not fully appreciate the seriousness of it, but at least you stopped selling immediately upon being apprehended and you have engaged in some drug counselling. I have a favourable report from an alcohol and drug counsellor at Headspace. Those are all factors in your favour.

It is necessary for me to balance them with the need to make clear that those who decide to sell drugs on a commercial basis, as you did, will be punished. MDA and drugs like it have the potential to be dangerous and are the cause of much concern in the courts and the community. You thought what you were selling was MDMA. Analysis showed that your belief was wrong. Although it was a substance which turned out to be similar, it could have been or contained anything. That emphasises the risk posed by persons who sell drugs like this and the risks taken by those who decide to use them. Having said that, the scale and nature of your crime does not warrant immediate imprisonment of a young person with no prior convictions. I considered a suspended sentence, but concluded that a community correction order with a condition requiring community service is the appropriate order. No programs are currently available but hopefully that will change in the foreseeable future. If the order becomes ineffective, then a re-think may be required. Whatever course is taken, you should clearly understand that any repetition of a crime like this would carry with it the very real risk of prison.

The State seeks an order that you pay the cost of the analysis of the drug of \$2,310. I accept that for you, that is a considerable sum. You oppose the making of the order on the basis that, because you admitted your crime and pleaded guilty prior to the analysis being requested, it

was unnecessary. I do not agree. I think that, in general, there is a very real public interest in accurate identification of the controlled substance which is the subject of the charge. In my experience, analysis will commonly reveal facts relevant to sentence. In this case the analysis disclosed that the drug was not what you thought it was. The cost of the analysis is an incident of the criminal conduct.

Dylan Traill-Barwick, you are convicted on the indictment and on count 3 on complaint 34064/2018. Counts 2, 4 and 5 on the complaint are subsumed in the indictment and dismissed. Pursuant to the *Misuse of Drugs Act*, s 36B, I assess the reasonable expense of and attending the analysis or examination of the controlled substance as \$2,310 and award that sum against you as part of the costs of the prosecutor. I order that the iPhone seized by the police on 21 July 2018 listed on Tasmania Police Property Receipt 283618 is forfeited to the State. I am satisfied that the \$580 seized by the police, is tainted property as being the proceeds of drug sales, and that no hardship will result from its forfeiture. I order, pursuant to the *Crime (Confiscation of Profits) Act* 1993, s 16(1), that the money is forfeited to the State. I may only allow 28 days to pay the sums you are required to pay, but you may apply to enter into a repayment arrangement. I impose one sentence. I make a community corrections order for a period of 24 months from today. The core conditions of that order will be specified in the order you will be given and include that you not commit an offence punishable by imprisonment, that you report to and comply with the directions of a probation officer, that you must not leave Tasmania without permission and that you must notify of any change of address. I impose a special condition that you must, within the operational period of the order satisfactorily perform 84 hours of community service, as directed by a probation officer or a supervisor. If you breach any of those conditions you may be brought back to court and re-sentenced.